

REMARKS

Initially, enclosed is a new drawing showing that FIG. 1 is prior art.

The objection to claim 24 has been corrected as suggested by the examiner.

The examiner should bear in mind that all of these various patents and applications of Lindell B. Jones, including the published application No. US2002/0194749, which discloses Mr. Jones and Mr. Tonkel, the inventor of the current invention, are owned by a singular Assignee. This also relates to the published application No. US2002/0152637, which is upon the invention of Lindell B. Jones and Ray Tonkel. All of these published applications are owned by a common Assignee.

The examiner has initially rejected under §102 claims 1, 3, 4, 6, 16, 24, and 25, as being anticipated by Jones, published application No. 2002/0194749.

Initially, since all of these applications are owned by a common Assignee, enclosed are Terminal Disclaimers for this current application relative to any patent that may issue upon U.S. published application No. 2002/0194749 and U.S. published patent application No. US2002/0152637. Hence, under the doctrine related to judicially created obviousness, it would appear that these Terminal Disclaimers may obviate the rejection by the examiner upon these published applications, which the examiner claims anticipate the current invention.

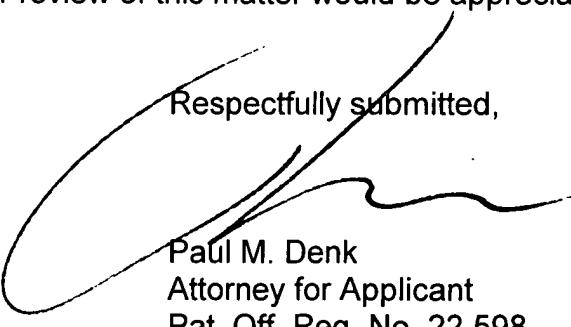
Nevertheless, and even though we have filed Terminal Disclaimers herein, the invention of this current application, particularly in the claims as amended, are just quite distinct from what is shown and described in the prior published applications. For example, the prior published application as cited by the examiner relates to the usage of the small swivel, generally as shown in FIG. 12 of the published application No. 194749, for holding a tongue in place, that allows for the ball to rotate within its socket, and thereby allows the tongue to rotate about the swivel, with rotation generally taking place along the longitudinal axis up the height of the applied tongue, as shown in that published application. But,

the claims of this application are more concerned with the style of pivotal or rotatable tongue 2, which is of a circular design, and which pivotally mounts to the spanning member or cross bar 6, that extends across the lacing opening, approximately at its midpoint half way up the opening along the upper edges of the quarter portions for the shown shoe, so that the pivotal tongue can then be pivoted in place, in a manner that is shown in FIG. 2 of the drawings, in either direction, for displaying different coloration, designs, indicia, during usage. This is entirely different from the pivotal or rotatable tongue as shown in the published applications. In fact, the Applicants' have already obtained a United States patent upon its early designed pivotal tongue, held by a swivel, as can be seen in their United States patent No. 6,574,887.

Hence, in view of the amendments made herein, and in view of the manner in which the pivotal tongue, of the circular design as shown in FIG. 2, not the prior art tongue as shown in FIG. 1, can be pivoted about a spanning member, to change its orientation and display, it is submitted that patentable subject matter is set forth in the claims, as amended, remaining in this application, and they also deserve patent protection.

The examiner's further review of this matter would be appreciated.

Respectfully submitted,



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